

FEDERAL COMMUNICATIONS COMMISSION
Washington, D C. 20554
OCT 24 2002

Clare

OFFICE OF
MANAGING DIRECTOR

Beth A. Jenkins, Vice President
Music Express Broadcasting Corporation
Post Office Box 800
Chardon, Ohio 44024-0800

Re: Request for Waiver of FY 1998,1999,2000,
And 2002 Regulatory Fees
Fee Control No.: 00000RROG-02-070

Dear Ms. Jenkins:

This letter responds to your requests for waivers of the regulatory fees for Fiscal Years (FY) 1998, 1999, 2000, and 2002 in the amounts of \$750, \$675, \$650, and \$950, respectively, submitted on behalf of AM station WATJ, Chardon, Ohio, licensed to Music Express Broadcasting Corporation.

You assert in each request for waiver of the regulatory fee that WATJ is continuing to experience financial hardship, as demonstrated by its Forms 1120S, U.S. Income Tax Returns for an S Corporation, which you attach. In particular, you contend that **no** compensation has been paid to the company's officers during any of the four years in question. In addition, you point out that WATJ was granted fee waivers in FY 1997 and FY 2001 on the basis of hardship, as shown by its tax returns, citing Letters to Warren Jones from Mark Reger, dated August 6, 1998, and November 13, 2001.

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333,5346 (1994); recon. granted, 10 FCC Rcd 12759 (1995).

With respect to the requested fee waiver for FY 1998, you recite that you "have not located a record of filing for relief for this year and are therefore submitting it" now. We find that this request for regulatory fee relief is untimely. It was not filed with the Commission until long after the fiscal year in question and, accordingly, does not **provide** a basis for relief or otherwise warrant any further consideration. Therefore we deny your request for waiver of the FY 1998 regulatory fee. That fee, in the amount of \$750, is now due.

With respect to the FY 1999 and FY 2000 fees, you have submitted documentation of waiver requests for these years dated September 9, 1999 and August 15, 2000, respectively. Our review of WATJ's 1999 Income ~~Tax~~ Return indicates that the station paid no compensation to its officers and that it suffered an operating loss of **\$44,748**, which was only partially offset by its deduction for depreciation in the amount of \$15,223. Similarly, our review of WATJ's 2000 Income Tax Return confirms that the station paid no compensation to its officers and that it suffered ~~an~~ operating loss of \$38,623, which was only partially offset by its deduction for depreciation in the amount of \$19,446. Accordingly, in light of WATJ's compelling showing of financial hardship, your requests for waivers of the **FY** 1999 and **FY** 2000 regulatory fees and any associated penalties for late payment are granted.

With respect to your request to waive the regulatory fee for **FY** 2002, although the licensee has submitted income tax returns ~~from~~ 1997 through 2001 in support of the instant pleading and its waiver requests addressed in prior letter rulings, you have not submitted current financial information for 2002. While WATJ's history of financial hardship suggests that your claim of continuing hardship for this year may be valid, we nevertheless require documentation. The Commission has held that regulatees can establish financial need by submitting:

[I]nformation such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation **of** how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information.

Implementation of Section 9 of the Communications Act, 10 FCC Rcd at 12761-62.

In the absence of appropriate documentation, you have failed to establish a compelling case of financial hardship for **FY** 2002. Therefore, your request for waiver of WATJ's **FY** 2002 regulatory fee is dismissed. Payment of the **FY** 2002 regulatory fee of \$950 is now due. **This** payment should be submitted together with a **Form** 159 (copy enclosed) **within** 30 days from the date of this letter. In view of your allegations of financial hardship, however, in lieu of payment, WATJ's request may be refiled together with appropriate supporting documentation within 30 days from the date of this letter.

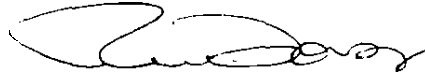
If payment or a refiled request is not received within 30 days from the date of this letter, WATJ will be assessed a late fee of 25% of the unpaid amount of the regulatory fee.

Beth A. Jenkins, Vice President

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If you have any questions concerning this letter, **please** contact the Revenue and Receivable Operation Group **at** (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger".Handwritten initials "for" in black ink.

Mark A. Reger
Chief Financial Officer

Enclosure

MUSIC EXPRESS
BROADCASTING CORPORATION
WATJ

P.O. Box 800
Chardon, OH 44024-0800

Phone: (440) 286-8781

Fax: (440) 286-9247

FAX HEADER SHEET

Date: 8-16-2002

To: Tom Autnam Fax No.: 202-418-2843

From: Beth Jenkins Pages to follow: 17

Re: Regulatory Fees

00000RR06-02-070

**MUSIC EXPRESS BROADCASTING CORPORATION
WATJ****P.O. Box 800
Chardon, OH 44024-0800****Phone: (440) 286-8781****Fax: (440) 286-9247**

To: Tom Putnam
Revenue & Receivables Operations
Fax No. ; 202-418-2843
From: Beth A. Jenkins
Date: August 16, 2002
Re: Regulatory Fees

as per our conversation yesterday, we have assembled for your review the following documents:

- 1) Letter dated today requesting waiver of fees for FY 1998, plus supporting copy of 1997 tax return. We have not located a record of filing for relief for this year, and are therefore **submitting** it herewith. (2 pages)
- 2) Documentation dated 9/9/99 requesting waiver of fees for FY 1999. (The 9/9/99 letter **should** have requested relief from **1999** fees; however, the year 1998 is listed). We have no record of acknowledgement. **(4 pages)**
- 3) Documentation dated 8/15/00 requesting waiver of FY2000 fees, for which we also received no acknowledgement. (The 8/15/00 letter **should** have read: "Also enclosed is a copy of correspondence **from** your office dated 8/6/98 **granting** us a waiver for **1997** fees." The year 1998 is incorrectly noted.) Included also is copy of 5/14/01 notice of non-payment **from** the **FCC**, and our **fax** dated **5/16/01** in reply to said notice. The documentation originally submitted via mail on 8/15/00 **was** then **faxed** to Ms. Meeks, **with whom** Ted Jones spoke on 5/16. He informed her we had submitted relief request 9 months earlier, (7 pages)
- 4) Letter **dated** today requesting waiver of FY2002 fees, plus supporting copy of 2001 return. (2 pages)

We apologize for ~~not~~ being more attentive to ~~tracking~~ responses to ~~our~~ requests, and initiating follow-up communication when the elicited **FCC** waivers ~~and/or acknowledgements~~ of our requests were ~~not~~ received in a timely manner.

Please advise **us** how best to rectify this ~~matter~~. It should be apparent ~~from~~ our ~~tax~~ returns ~~that~~ we are struggling. **WATJ** is a **small** day timer in a community that does not **support** its local station with sufficient advertising revenues to cover ~~our~~ operating expenses. We believe ~~that~~ the **FCC** regulatory fees impose ~~an~~ economic **hardship** on **us**.

Regarding the 2002 fees, which are due by September **25**, we will pay the \$950 by that date unless we hear from you to ~~the~~ contrary. Per the information I printed off the **FCC** web site ~~"Your~~ regulatory fee must be paid by the due date even if a request is **made** for **a** waiver or reduction."

Please feel free to call or fax at the above numbers, or communicate via e-mail to Tannerwoad@aol.com.

Thank you for your assistance in ~~this~~ matter.

Theodore **T.** Jones
MUSIC EXPRESS
BROADCASTING CORPORATION
OF NORTHEAST OHIO
P.O. Box 800
Chardon, **OH** 44024-0800

Phone: (440) 286-8781

Fax: (440) 286-9247

To: Ms. Teresa Meeks
Fax: 202-418-2843
From: T. T. Jones
Date: May 16, 2001
Re: Waiver of Regulatory Fee for **WATJ-AM 1560**
Music Express Broadcasting Corp.

Per ~~our~~ telephone conversation today, please find attached **information that** respectfully requests relief from payment of a Regulatory Fee.

I understand ~~this~~ information will be directed to the **FCC** Office of ~~General~~ Counsel for a decision.

Thank you for your assistance.

Enclosures:

Letter dated **May** 14, 200 from **FCC** Revenue & Receivables
Operations Group

Letter dated **August** 15, 2000 from **Warren Jones** to **FCC**

Page 1 of 1999 Form 1120S (U.S. Income Tax Return)

Letter dated **August 6, 1998** from **FCC** granting waiver

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

MUSIC EXPRESS BROADCASTING CORP.
P.O. BOX 800
CHARDON, OH 44024

MAY 14 2001

Re: 2000-9MB-0756

Dear Licensee:

This letter is in reference to the annual 2000 regulatory fee(s), which were due to the Federal Communications Commission (Commission) by no later than September 22, 2000. This is a mandatory fee established by Congress in accordance with The Omnibus Budget Reconciliation Act of 1993. The fees are used to offset costs associated with the Commission's enforcement, public service, international and policy and rulemaking activities.

The Commission is currently verifying its FY 2000 Mass Media Bureau regulatory fees collection to identify those regulatees who have not paid. Our research indicates that we have no record of your 2000 regulatory fee payment for the following call sign:

WATJ-AM

The amount now due is \$650.00 plus a 25% penalty of \$162.50 for late payment of the fee(s). The total amount now due is \$812.50. Payment in full should be remitted with the enclosed Form 159 to: Federal Communications Commission, P.O. Box 358835, Pittsburgh, PA 15251-5835 within thirty (30) days of the date of this letter. You should submit all payments that may be due including the 25% penalty for each call sign. To obtain a copy of the Public Notice for further instructions, go www.fcc.gov and click on "Fees." Then click on Regulatory Fees and locate your particular service.

If payment has been made, please provide a complete copy of your submission including proof of payment. If you believe you are not obligated to pay under the Commission's ruling, please submit complete documentation supporting your position within thirty (30) days of the date of this letter. These documents should be sent to: Federal Communications Commission, Revenue & Receivables Operations Group, Room 1A821, 445 2 Street, SW. Washington, DC 20554.

You are cautioned that failure to respond and/or pay the penalty will subject you to further sanctions as defined by CFR Section 1.164 of our Rules. These sanctions include subjecting the delinquent payer's pending applications to dismissal, and may require a delinquent payer to show cause why its existing instrument of authorization should not be revoked. Further sanctions include interest charges, and the full cost of collection to the Federal Government pursuant to Section 3720A of the Internal Revenue Code and the provisions of the Debt Collection Act.

If you need further assistance, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

Susan A. Donahue

Susan Donahue, Chief
Revenue & Receivables Operations Group

Enclosure

1998
2945

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

August 6, 1998

OFFICE OF
MANAGING DIRECTOR

Mr. Warren Jones
Music **Express** Broadcasting Corporation
of Northeast Ohio
PO Box 800
Chardon, Ohio 44024-0800

Re: **Request** for Waiver of Regulatory **Fee**
AM Radio Station WATJ
Fee control # 9709158835324007
Fee Paid: \$1,400

Dear Mr. Jones:

This is in response to your **request** for a **waiver of the Fiscal Year (FY) 1997 regulatory fees** for AM Radio Station WATJ, Chardon, Ohio, licensed to Music **Express** Broadcasting Corporation (Music **Express**). You argue that Radio Station WATJ has been operating at a loss and that you are not paid a **salary**. In support of your request, you **have** submitted a copy of Music Express' 1997 Income Tax Return.

In establishing its regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee **may** impose an undue financial hardship upon a licensee. **Thus,** the Commission decided to grant waivers or reductions of its **regulatory fees** in those instances where a "petitioner presents a compelling case of financial hardship." Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995).

In determining whether a licensee has sufficient revenues to **pay** its regulatory fees, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits. **Thus,** although deductions for amortization and depreciation, which do not affect **cash flow**, and payments to principals, **reduce gross** income for tax purposes, those deductions also represent money which is considered to be available to pay the regulatory fee.

The Income *Tax* Return confirms **that** there has been no compensation paid to Music Express' officer and that the licensee has suffered financial **losses** which **are** not off-set by depreciation or amortization. Under these circumstances Music **Express** has made a compelling showing of financial **hardship** which warrants a waiver of **the** regulatory fee paid for AM Radio Station WATJ.

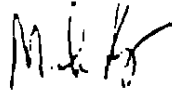
Mr. Warren Jones

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The waiver, however, is limited to Music Express' FY 1997 regulatory fee. If Music Express continues to experience financial hardship, you may file requests for waivers of its regulatory fees for FY 1998 and succeeding years, supported by documentation of its current financial condition,

A check, made payable to the maker of the original check, and drawn in the amount of \$1,400 will be sent to you at the earliest practicable time. If you have any questions concerning the refund, please call the Chief, Fee Section, at (202) 418-1995.

Sincerely,



Mark Reger
Chief Financial Officer